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FM AMEMBASSY BRASILIA  
TO RUEHC/SECSTATE WASHDC PRIORITY 0863  
INFO RUEHRI/AMCONSUL RIO DE JANEIRO 5700  
RUEHRG/AMCONSUL RECIFE 7612  
RUEHSO/AMCONSUL SAO PAULO 1487  
RUEHAC/AMEMBASSY ASUNCION 6538  
RUEHBU/AMEMBASSY BUENOS AIRES 5262  
RUEHCV/AMEMBASSY CARACAS 3945  
RUEHME/AMEMBASSY MEXICO 2113  
RUEHMN/AMEMBASSY MONTEVIDEO 7196  
RUEHLP/AMEMBASSY LA PAZ 5903  
RUEHSG/AMEMBASSY SANTIAGO 0119  
RHEHNSC/NSC WASHDC  
RUEATRS/DEPT OF TREASURY WASHDC  
RUCPDOG/USDOC WASHDC  
RHMFISS/CDR USSOUTHCOM MIAMI FL  
RUEAIIA/CIA WASHDC  
RHMFIUU/FAA NATIONAL HQ WASHINGTON DC  
RUEAYVF/FAA MIAMI ARTCC MIAMI FL  
RULSDMK/DEPT OF TRANSPORTATION WASHDC  
RUEHC/DEPT OF LABOR WASHDC

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STATE FOR WHA/EPSC AND EEB/TRA  
STATE PASS USTR FOR KATE DUCKWORTH  
FAA FOR CCAPESTANY, KBERQUIST, GBURDICK  
DEPT OF TRANSPORTATION FOR MSTREET, BHEDBERG  
BUENOS AIRES FOR TSA ATTACHE  
MEXICO CITY FOR TSA ATTACHE MGALVAN  
USDOC FOR 4332/ITA/MAC/WH/OLAC  
USDOC ALSO FOR 3134/USFCS/OIO  
USDOC ALSO FOR 6710/EALFORD  
NSC FOR TOMASULO  
TREASURY FOR JHOEK  
SOUTHCOM FOR POLAD  
USAID FOR LAC/AA

E.O. 12958: N/A

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SUBJECT: BRAZIL CIVAIR: AVIATION BILATERALS HELD IN RIO DEC. 5-6,  
2007

REF: A) Brasilia 2124 B) USG Nonpaper delivered by Amb. Sobel to  
ANAC 12/20/07 C) 12/21/07 ANAC response letter faxed/e-mailed  
Sarrano/Robl

SENSITIVE BUT UNCLASSIFIED--PLEASE PROTECT ACCORDINGLY

11. (SBU) Summary: U.S. and Brazilian delegations met in Rio de Janeiro December 5-6, 2007 for their first formal bilateral aviation consultations in 10 years to focus on liberalization. While the Brazilian negotiators offered a limited number of increased frequencies to limited destinations in the north and northeast, and were open to additional U.S. carriers serving Brazil, they were unwilling to explore liberalization in key areas for the United States, including third-country codesharing to intermediate points, additional all-cargo frequencies, and additional service to Brazilian destinations south of Brasilia. The delegations signed a Memorandum of Consultations expressing their intent to meet again before the end of 2008.

12. (SBU) Since the conclusion of the negotiations, Ambassador Sobel has informally engaged with Minister of Defense Nelson Jobim and two of the five new directors of the Agencia Nacional de Aviacao Civil, "ANAC" (the new Director-President, Solange Paiva Vieira, and the new Director for International Aviation, Ronaldo Seroa da Motta), regarding increased frequencies and destinations for U.S. carriers.

In response to a U.S. nonpaper delivered on December 20 (ref B), ANAC on December 21 offered a list of proposed new routes eligible for twenty-one proposed additional frequencies. This proposal is currently under U.S. interagency and industry review. End Summary.

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ANAC: Background  
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¶3. (U) Our current bilateral air services agreement was signed on March 21, 1989. Moderate expansion of bilateral rights was achieved through an amendment negotiated in 1996 (entered into force in 1997) and a proposed amendment applied on the basis of comity and reciprocity since late 1997. The December sessions were the first formal consultations between U.S. and Brazilian civil aviation negotiators since 1997.

¶4. (SBU) In March 2006, Brazil began a complete restructuring of its civil aviation authority, transitioning from a military entity, the Departamento de Aviacao Civil ("DAC"), to the current Agencia Nacional de Aviacao Civil ("ANAC"). In theory, ANAC is an independent, civilian regulatory authority based in Brasilia. In practice, due to resistance from the DAC military personnel who transitioned to ANAC to provide continuity and are being phased out over a period of five years, ANAC continues to operate largely from Rio. In addition, ANAC retains a "dotted line" relationship to the Ministry of Defense. Air traffic control remains directly under military control via another agency, the Departamento de Controle de Espaco Aereo ("DECEA").

¶5. (SBU) Brigadier General (Ret.) Eliezer Negri, part of the "old guard" from the DAC who transitioned to ANAC as Superintendent of

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International Relations, led the Brazilian delegation for the December 5-6 talks. While Negri has been accommodating with the Federal Aviation Administration on technical and air traffic control issues, he clearly had been authorized no flexibility on certain key areas for liberalization of our bilateral aviation agreement.

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Discussions  
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¶6. (SBU) EEB Director for Aviation Negotiations Terri Robl, U.S. delegation head, set the stage by discussing aviation liberalization in the context of our broader bilateral economic and commercial dialogue. Robl stressed Brazil's importance as a trade partner, citing the boom in trade flows (more than double from 20 billion USD in 1996 to 46 billion in 2006) and healthy increases in passenger (6%) and cargo (12%) traffic over the past year. She noted that our agreement had not been updated in more than 10 years, and that it remains one of our most restrictive agreements in South America, thereby inhibiting market growth. The U.S. ideal, she pursued, would be an Open Skies agreement that could be phased in.

¶7. (SBU) Brazilian delegation head Negri reviewed with USDel the previously agreed agenda of frequency, designation, routes, codesharing, tariffs, and transit visas. He then contrasted the relative importance of the aviation markets in the U.S. and Brazil, calling the U.S. the "hulk" and Brazil the "dwarf." He asserted that Brazil only represents 3.6% of traffic from U.S. airlines, while Brazil's flights to and from the U.S. represent 25% of the international business for TAM, the country's only carrier currently flying those routes. He also gave a cargo example, saying that Brazil represented only 2.9 percent of U.S. cargo carrier Polar's business, but the U.S. represented 33 percent of Brazilian carrier VarigLog's business. Negri repeated the "unbalanced markets" theme over the next two days.

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Key points - Brazilian Delegation  
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¶8. (SBU) Summary of negotiating points presented by the Brazilian delegation:

- Brazil would not be able to offer unlimited frequencies, and would want to know exactly how many frequencies U.S. carriers needed to each approved city. He used the term "predetermination of capacity", harkening back to previous rounds where Brazil doled out a few additional frequencies during each round of negotiations.

- As of June 2007, the official Brazilian position was that no additional frequencies could be approved for Sao Paulo airports, but that the GOB would honor its bilateral obligations for frequencies already contained in its international agreements. Negri attributed this position to the need to restructure airport infrastructure, air space and air traffic control in and around Sao Paulo.

- 21 additional frequencies could be offered, but only to

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north/northeast points in Brazil.

- Brazilian infrastructure shortcomings precluded any additional frequencies to points south of Brasilia, and the delegation could offer no timeframe for resolution of these infrastructure issues.

- Brazil requested that the U.S. eliminate its transit visa requirement for passengers traveling to and from Brazil.

- Brazil sought an "open route" schedule that would allow for services from behind Brazil, via Brazil and intermediate points, to the United States and beyond..

- Brazil's view is that third country codesharing would benefit the third country airlines, rather than those of Brazil or the U.S., and that Brazilian aviation policy does not allow for such operation through intermediate points. He did offer to permit such operations beyond Brazil to points south.

- Brazil could permit unlimited designation of U.S. carriers for both combination and all-cargo flights, provided that the frequency restrictions remained.

¶9. Furthermore, Negri committed to raise U.S. concerns regarding the business climate (see below for details) with appropriate (e.g., customs) officials, and proposed signing a Memorandum of Consultations.

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Key points - U.S. Delegation  
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¶10. (SBU) Following are the U.S. points presented by USDel:

- Frequencies, designations, and third-country codesharing to intermediate points are linked in terms of how companies use flexibilities to plan and "test the market" to determine optimal operations between the U.S. and Brazil. Third-country codesharing allows airlines to use resources more efficiently by testing markets before committing their own aircraft and other resources. U.S. and European carriers have used this strategy successfully for more than 10 years.

- Experience has shown that once a U.S. carrier enters a market through codesharing, additional passenger and cargo traffic is stimulated. This in turn creates additional feeder traffic to other parts of Brazil, which stimulates the tourism sector, creates jobs in airport and related services, and has other multiplier effects on the broader economy.

- The positive marketing effects of codesharing and alliance partners marketing Brazil routes could promote broad economic development and benefit Brazilian companies through increased exposure to potential customers in Asia, Europe and North America.

- As part of a good overall package, the U.S. could accept

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limitations on frequencies at Sao Paulo and possibly Rio, if the cap on frequencies to the rest of the country were eliminated.

¶11. (U) On visa issues, USDel explained that it had no authority to address the Brazilian request, and that the transit visa requirement was a response to security concerns and not applicable only to Brazil. USDel relayed information about how wait times had been reduced through U.S. consulate initiatives and conveyed USG concerns with the difficulty and expense U.S. company personnel have reported encountering trying to get business visas for Brazil. USDel suggested the upcoming January 2008 annual bilateral consular dialogue as an appropriate forum for visa issues.

¶12. (U) USDel also raised other "doing business" challenges, mainly related to costs and difficulties in getting recognition of tax exempt status for certain U.S. carrier activities.

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A Good First Step  
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¶13. After a thorough discussion within the delegation and with senior State and DOT representatives back in Washington, USDel responded to the Brazilian proposal as follows: In the absence of broad third country codesharing or other indications of Brazilian negotiating flexibility for a more systemic approach to liberalization, the U.S. preferred to wait until Brazil was able to agree to broader opening of bilateral aviation market. While the talks had been very useful in terms of reestablishing consultations after a long hiatus, it was clear that the gap between the two sides was too wide to permit an agreement at this juncture. The U.S. team invited the Brazilian team to Washington for more consultations before the end of 2008.

¶14. (SBU) The heads of delegation signed a Memorandum of Consultations (MoC) documenting the Rio discussions, including their intent to meet again before the end of 2008. The MoC and a full list of the participants may be found at [www.state.gov/documents/organization/97802.pdf](http://www.state.gov/documents/organization/97802.pdf)

¶15. (SBU) Subsequent to the negotiations, Ambassador Sobel has engaged Defense Minister Jobim as well as new (as of December 19) ANAC Director-President Solange Vieira, Director of International Aviation Ronaldo Seroa da Motta, and negotiations head Negri to try to reopen the discussion of cities previously excluded (i.e., cities below the 16th parallel). The Ambassador delivered ref B non-paper on December 20 to Vieira, da Motta and Negri. Without committing to anything regarding cargo, code-shares or other US concerns, Brazilian interlocutors indicated some flexibility could be possible on frequencies. In ANAC's December 21 response (ref C), Brazil offered twenty-one new frequencies exclusively for service to Belem, Belo Horizonte, Brasilia, Fortaleza, Manaus, Recife, and/or Salvador and unrestricted designations. Post awaits the results of interagency and industry consultations on this issue before taking additional action with the GOB.

¶16. (U) This cable has been cleared with the Washington

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delegation.

SOBEL